

REPORT

Of the Committee on Pensions and Revolutionary Claims, on the petition of Edmund Brooke.

DECEMBER 23, 1817.

Read, and ordered to lie upon the table.

JANUARY 7, 1818.

Considered, and committed to a committee of the whole House on Monday next.

The Committee on Pensions and Revolutionary Claims, to which was referred the petition of Edmund Brooke,

REPORT:

That the petitioner claims pay, depreciation of pay, commutation and bounty lands, for his services in the revolution as first lieutenant in the first regiment of Virginia artillery, on the continental establishment. He states that he was appointed to that office in February, 1781, and that he continued in service "till the siege of Yorktown, when being extremely ill, he was compelled to ask a furlough for a few weeks." The petitioner does not state that he ever afterwards joined the army, but, that he held himself in readiness to obey any call that might be made on him. The committee are of opinion from this statement of facts, that the acts of limitation would be amply sufficient to oppose to this claim, but that the House may possess the same knowledge of facts, with which *they* have acted upon the petition, they have determined to report in detail. This claim has often been before Congress, and has been reported against at several different sessions.

The committee, before they proceed to an examination of its original merits, cannot but express their regret, that the pertinacity of claimants has in some measure been encouraged, by the apparent success of some, supposed, fortunate petitioners. The committee proceed to examine the several items of claim, in the order in which they are presented, and have adopted the report of the committee on pensions and revolutionary claims, to which this petition was referred at the 3d session of the 11th Congress. First; Pay—by a certificate dated March 17th, 1798, signed "Aw. Dunscomb," late assistant

commissioner of army accounts, Virginia, produced as is supposed, by the petitioner, and referred to in his petition, are these words: "From an examination of the books in the office of the auditor for the state of Virginia, it appears that colonel Duval settled the account of Edmund Brooke, as a lieutenant of artillery, on the 5th day of March, 1784."

2d. Depreciation of pay—by a resolve of Congress of 10th of April, 1780; "the line of the army, and the independent corps thereof," were promised when the public finance would admit, that the deficiency of their pay, occasioned by depreciation should be made good; but this provision is not applicable to any but such as were engaged during the war, or for three years, and were then in service. The petitioner does not come within the provisions of this resolution.

3d. Commutation—by a resolution of Congress of March 22d, 1783, "all officers then in service, and who should continue therein to the end of the war, were entitled to receive the amount of five years full pay, instead of the half pay for life," promised by the resolution of 21st of October, 1780. The latter resolution from its obvious import, did not make provision for any officers except those then in the service, or reduced. As the petitioner was not in service or reduced, in October, 1780, he could never have been entitled to commutation, had he continued in service to the end of the war. It has long since been settled, that the war ended when the troops were discharged on the 3d November, 1783, and there is not sufficient proof that he continued in service till that time.

4th, Bounty—this subject belongs to the Treasury Department; had it been the sole prayer of the petitioner, it is believed it would not have been referred to your committee. The committee recommend to the House, the adoption of the following resolution:

Resolved, That the prayer of the petitioner is entirely unfounded, and ought not to be granted.

Petition of Edmund Brooke, of the 1st February, 1803.

To the Honorable the Congress of the United States.

The petition of Edmund Brooke, humbly sheweth: That in the year 1781, in the month of February, your petitioner was appointed a first Lieutenant in the first regiment of Virginia Continental Artillery: That he immediately repaired to his regiment and remained with it until the siege of Yorktown, in Virginia, where, being extremely ill, he was compelled to ask a furlough for a few weeks: That the regiment, or rather the only two companies then full and belonging to it, were ordered to the southward, to join Gen. Green's army, where they remained during the war: That your petitioner held himself in readiness to obey any call which should be made upon him, and remained an officer in the said regiment to the end of the war: That after the conclusion thereof, he obtained the necessary vouchers, and received from the state of Virginia that portion of pay which it had pledged itself to pay to its officers and soldiers of the Continental Line; also, a bounty in lands allowed a first Lieutenant who had served to the end of the war, as will appear by certificate from the journals of the Council of Virginia, the auditors and registers office here to be annexed: That your petitioner at the same time and frequently since, applied to Andrew Dunscomb, the assistant army agent in Virginia, to be allowed a certificate for the balance of his pay, depreciation and commutation, but was refused on the ground that your petitioner's name had been omitted in the last pay roll of his regiment, the document on which the accounts of officers similarly situated with your petitioner has been liquidated, as will appear by his certificate hereto annexed: That your petitioner uninformed of the true mode of redress, requested an application to be made to the Legislature of Virginia, in the progress of which, it was discovered, that his resort was to the Legislature of the United States: That after various delays, arising from your petitioner's being tantalized with redress, first in one quarter and then in another, and much difficulty in procuring vouchers from the different offices, your petitioner forwarded his papers some sessions past to a gentleman of your body, who being taken ill, was unable to exhibit them in time. Your petitioner, therefore, takes this occasion of exhibiting his pretensions, when he hopes they will receive the consideration due to their merits, and from that justice for which the Legislature of the United States is so rightly famed, and that your petitioner may be allowed such compensation for his services as his brother officers in like circumstances have received; and your petitioner, relying upon that justice which admits of no diminution from the lapse of time, trusts that the rules of limitation to claims upon the United States will be found inapplicable to his, when it is considered, that the omission of a public officer, and no default in

your petitioner, has been with unavoidable circumstances, the causes of the delay which has occurred, and that it is supported by vouchers from the records of the country, equal in dignity to the records of courts, against which, even in legal strictness, acts of limitation are over run, and not by testimony and other evidence of a perishable nature. Upon the whole of the foregoing considerations, he humbly hopes the case may be impartially investigated, and that his claim for pay, depreciation of pay, continuation, and the bounty of land given by the United States to the officers and soldiers of the Continental Army who served until the end of the war, may now be liquidated, and allowed him,

And your petitioner shall for ever pray.

EDMUND BROOKE.

December 1st, 1802.

Petition of Edmund Brooke, presented December 10, 1810.

To the Honorable the Congress of the United States.

The Petition of Edmund Brooke humbly sheweth: That in Feb. 1781, your petitioner was appointed a first lieutenant in the first regiment of Virginia artillery on the continental establishment: that he immediately repaired to his regiment and remained with it, until the siege of Yorktown in Virginia, when being extremely ill he was compelled to ask a furlough for a few weeks: that the regiment, or rather the only two companies then full, and belonging to it, were ordered to join general Green's army in Carolina, where they remained during the war: that your petitioner held himself in readiness to obey any call that might be made on him, and remained an officer in the said regiment until the end of the war, when he obtained the necessary documents, and received from the state of Virginia, that portion of pay which it had been pledged to pay to its officers in the continental line; also, the bounty in land allowed to a first lieutenant, who had served until the end of the war, as will clearly appear by a certificate from the journals of the council of the state of Virginia, as well as from the Auditor's and Registers's office, all of which are hereto annexed. That your petitioner at the same time, and frequently thereafter, applied to Andrew Dunscomb, the assistant army agent in Virginia, for a certificate for the balance of his pay, depreciation of pay, and commutation, but was refused the same, on the ground, that your petitioner's name did not appear on the last pay roll of his regiment, (the document on which the accounts of officers, similarly situated with your petitioner) were then liquidated, as will also

appear by a certificate hereto annexed. That your petitioner uninformed of the true mode of obtaining redress, applied to the legislature of Virginia, in the progress of which application, it was discovered that his resort was to the Congress of the United States: that after various delays arising from your petitioner being tantalized, first with redress from one quarter, and then from another, and much difficulty in procuring vouchers from the different offices, your petitioner forwarded his papers some sessions past to a gentleman of your honorable body, who being taken ill was unable to present them in time. Your petitioner therefore takes this occasion to exhibit his pretensions, in hopes that they may receive that consideration, which may be due to their merits, and that justice, for which Congress are so rightly famed, and that your petitioner may be allowed such compensation, as his brother officers in similar situation, have actually had and received: and your petitioner relying on that justice which admits of no diminution from the laps of time, trusts that the rules of limitation to claims against the United States, may be found inapplicable to his case, when it is considered that the delay in question, has been produced by the omission of a public officer and not from the default of your petitioner. This claim is supported by vouchers from the records of the country, equal in dignity to the records of courts, against which even in legal strictness, acts of limitation never run, so that upon the whole of the foregoing considerations, your petitioner humbly hopes that his case may be impartially investigated, and his claim for pay, depreciation of pay, commutation and the bounty of land, given by the United States to the officers of the continental army, who served until the end of the war, may be now liquidated and allowed: and your petitioner as in duty bound will ever pray.

EDMUND BROOKE.

I do certify that lieutenant Edmund Brooke is entitled to the proportion of land allowed a lieutenant of the continental line, who has served to the end of the war.

THOMAS MERRIWETHER.

Council chamber, February 19th, 1784.

BENJAMIN HARRISON.

Land office military warrant, No. 2541.

To the principal surveyor of the lands set apart for the officers and soldiers of the commonwealth of Virginia:

This shall be your warrant to survey and lay off in one or more

surveys, for Edmund Brooke, his heirs or assigns, the quantity of two thousand six hundred sixty-six and two-thirds acres of land, due unto the said Edmund Brooke, in consideration of his services for the war, as a lieutenant in the Virginia continental line, agreeable to a certificate from the governor and council received into the land office. Given under my hand and the seal of the said office, this 19th day of February, in the year one thousand seven hundred and eighty.

JOHN HARVIE,

Register, Land Office.

Virginia Land Office,

I do hereby certify, that the above are copied in this office, the first from the original certificate, the last from record.

[L. S.] Given under my hand and the seal of said office, this 21st day of December, 1797.

WILLIAM PRICE, Register.

(Duplicate.)

Upon examining a memorandum book in my office, I find the name of Edmund Brooke, entered thereon as a lieutenant of artillery: but no such name appears on the official return made to me by the paymaster of the regiment, commanded by colonel Charles Harrisson. This last evidence was that by which the accounts of the regiment were settled, it being founded upon the last muster rolls. I am induced to suppose that application was made to me for a settlement of Edmund Brooke's accounts, but from his name not appearing on the above return, a settlement did not take place.

ANDREW DUNSCOMB,

Late assistant com. army accounts, Virginia,

December 21st, 1797.

Richmond 17th March, 1798.

From an examination of the books in the office of the auditor for the state of Virginia, it appears that colonel Duvall settled the account of Edmund Brooke as a lieutenant of artillery, on the fifth day of March 1784. It is therefore probable that at that, or no distant period, application was made at my office for a further settlement of

the claim of the said Brooke. My office as assistant commr. of army accounts, continued until the first of November, 1785, previous to which, I am satisfied the said application was made, but whether more than once I cannot say: the reasons for refusing a settlement have been before given.

ANDREW DUNSCOMB,

Late assistant com. army account, Virginia.

It appears by the books in this office, that a certificate was delivered to colonel Duvall, in the name of Edmund Brooke, lieutenant of artillery, amounting to 126l. 14s. dated 5th March, 1784.

JOHN CARTER.

Auditor's Office, November 21, 1796.

George Town, Washington county, District of Columbia, to wit: the 25th December, 1802.

Edmund Brooke, of Virginia, personally appeared before me, one of the justices of peace for the county aforesaid, and made oath on the Holy Evangelist of Almighty God, that he received an appointment in the last war, as first lieutenant in the first continental regiment of artillery, commanded by colonel Charles Harrisson, since deceased; that he immediately entered into the said service and continued therein, till a few days before the siege of York, when he left camp in consequence of a very severe illness, which lasted for many weeks; that it was his intention when he recovered to join the said regiment again, which was rendered unnecessary by the capitulation of lord Cornwallis. That for his services as an officer aforesaid, he never received any donation of land in the north western territory, which he was entitled to, and which he now claims.

Sworn before

THOMAS CORCORAN.

It appears from the record of military land warrants, that on the 19th day of February 1784, a warrant No. 2541, issued in the name of

Edmund Brooke, for two thousand six hundred and sixty-six and two-third acres, in consideration of his services for the war, as a lieutenant in the continental line.

WILLIAM PRICE, Reg.

Land office, December 14, 1802.

I do hereby certify that Edmund Brooke, was a lieutenant in the first regiment of artillery on continental establishment, and that he was in actual service in March 1781, upon an expedition against Portsmouth (Virginia) then occupied by the British troops; that after that, he was with the Marquis De La Fayette's army until some time in July, when I was ordered to join the southern army; that he was always considered by the officers of that regiment as one of many belonging to the regiment, and not in actual service for the want of men: the regiment being reduced to two companies.

JOHN T. BROOKE.

I do certify that Edmund Brooke had an appointment in colonel Harrison's regiment of artillery as a commissioned officer, either in 1800 or 1810; I myself served the last two campaigns during the war to the south, therefore cannot with certainty say; he, the said Brooke, served during the war, but have generally understood he did. As for the three gentlemen mentioned in H. B. Brooke's certificate, Coleman, Bohannon, and Miller, were officers in the abovementioned regiment, and are all dead.

Given under my hand this 14th day of January, 1802.

J. BOOKER.

Formerly an officer in Harrison's regiment artillery.

Essex County, to wit:

The above certificate was sworn to before me, this 15th of December.

H. B. BROOKE.

In case of E. Brooke.

Claim appears to be barred by limitation.

WIRT, for Mr. DAWSON.

I do hereby certify that Edmund Brooke received an appointment in the late revolutionary war with Great Britain, as first lieutenant, in the first continental regiment of artillery, commanded by colonel Charles Harrison, into which service he immediately entered upon receiving the appointment, and continued in constant service many months before Cornwallis's invasion of the state of Virginia. During this invasion, the said Edmund Brooke served unremittingly until a week or two before the siege of York, when having contracted a severe illness in consequence of his being exposed, he returned home and remained too ill to return till after the capitulation. The captain, and capt. lieut. to whose company the said E. Brooke belonged, and by whom the above facts could have been fully established, were both residents of my neighborhood, and are both dead.

Given under my hand this 14th day of December, 1802.

H. B. BROOKE.

Essex county, viz:

Humphrey B. Brooke personally appeared before me, James Hunter, a magistrate in the said county, and made oath to the truth of the above certificate. Given under my hand, this 15th day of December, 1802.

JAMES HUNTER.

Essex county, viz:

Thomas Dix, personally appeared before me, Humphrey B. Brooke, one of the commonwealth justices of the peace for the said county, and made oath that he had a capt. lieut's command in the regiment commanded by colonel Charles Harrison, in the last war, and was in service at the time mentioned in the certificate hereunto annexed, at which time Edmund Brooke bore a lieutenantcy in the said regiment, in a company commanded by captain Whitehead Coleman, since dead, and that the facts contained in the certificate of Humphrey B. Brooke, with respect to the said E. Brooke's service and indisposition at the time spoken of in the said certificate, is true.

Given under my hand, this 15th day of December, 1802.

H. B. BROOKE.

Essex county, to wit:

William Waring of the said county personally appeared before me, Humphrey B. Brooke, one of the commonwealth's justices of the peace in the said county, and made oath that in the campaign of seventeen hundred and eighty, during Cornwallis's invasion of the state of Virginia, he commanded a company of militia from the county of Essex, and was frequently in company with Edmund Brooke, who, at that time, and for many months before, was first lieutenant in a regiment of artillery, commanded by colonel Charles Harrison, and in a company of the said regiment commanded by captain Whitehead Coleman, of the aforesaid county, since dead. That the said Edmund Brooke remained with the said company till within a short time



of the siege of York, when he left camp with the said affiant, being at that time much indisposed, in consequence of his suffering a good deal of hardship and being much exposed, to which he (the affiant) was a witness. That the said Edmund Brooke had a severe illness upon his return home, which was of some continuance.

The said affiant states that he was very intimate with the said Edmund Brooke, and never understood from him, that he intended to resign when he quitted the camp; and that captain Coleman, and capt. lieut. Miller, to whose company he, the said Brooke belonged, as well as captain Ambrose Bohannon of the same county and regiment, are all since dead. Given under my hand, this 16th day of December, 1802.

H. B. BROOKE.

Essex Office, December 16th, 1802.

I, John P. Lee, clerk of the county court of Essex, do certify, that H. B. Brooke and James Hunter, Esquires, whose hands are affixed to the foregoing certificates, are both magistrates of the county of Essex, and that due faith and credit ought to be paid to all their acts and deeds as such. [L. s.] In testimony whereof, I have hereunto set my hand, and caused the seal of my office to be hereunto affixed, this day and year abovementioned, and of our independence, the 27th.

JOHN P. LEE, C. E. C.

Upon an examination of a memorandum book in my office, I find the name of Edmund Brooke entered thereon, as a lieutenant of artillery, but no such name appears in the official return made to me by the paymaster of the regiment, commanded by colonel Charles Harrison; this last was the evidence by which the accounts of that regiment was settled, the same being founded upon the last musters that were made, and the best information that could be then had upon the subject.

I am induced to believe that application was made to me for a settlement of E. Brooke's accounts, but the above deficiency operated against the same.

ANDREW DUNSCOMB,

Late assistant com. army account, Virginia.

November 22d, 1796.